

## REMARKS

This Amendment is being filed in response to the Office Action mailed on January 31, 2006, and the Decision on Appeal mailed on August 31, 2009, which have been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-3, 6-10, 12-16, 18-22, 24 and 25 stand anticipated under 35 USC §102(e) by Inoue.

Inoue describes a transmission and recording apparatus and a recording method by which data can be communicated between different apparatus over a single data bus wherein data can be transmitted and /or received periodically and a second method wherein data can be transmitted and/or received asynchronously. (See Abstract).

“Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*” Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added).

It is respectfully submitted that Inoue does not disclose or suggest the present invention as recited in amended independent claim 1, and similarly recited in amended

independent claim 22, which, amongst other patentable elements, recites (illustrative emphasis provided):

with said predetermined grouping formulation for storage being at the elementary level further including an indication for the interval in which they are valid, **wherein said indication enabling only one instance of a version of a module to be recorded by the receiver.**

Support for these amendments can be found at least in the specification on page 7, line 22 – page 8, line 2. No new matter has been added.

As decided in Appeal No. 2008-005172, on September 21, 2009, the feature of claim 1, namely, "an indication for the interval in which they are valid," was found to be nonfunctional descriptive material. Because no use of the indication is claimed, and no action is performed in response to the storing thereof. With the amendment to claim 1 and 22 a use and an action is performed in response to the storing of the indication. Accordingly this feature is functional and is entitled to patentable weight.

Accordingly, it is respectfully submitted that independent claims 1 and 22 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-3, 6-10, 12-16, 18-21, 24 and 25 should also be allowed at least based on their dependence from independent claims 1 and 22.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the

presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Thomas J. Onka', written over a horizontal line.

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